

20 Park Plaza
Suite 320
Boston, MA 02116
617-904-3100
Fax: 617-904-3109
www.capewind.org

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Mr. H. Curtis Spalding
Regional Administrator
EPA Region I
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Air Compliance Clerk
U.S. EPA New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Dear Mr. Spalding,

For the past decade, Cape Wind Associates, LLC ("Cape Wind Associates") has been diligently working towards construction of the nation's first major offshore wind energy facility. Despite the significant environmental and economic benefits of the Cape Wind project and the support it has received from the federal government, the Commonwealth of Massachusetts, and numerous environmental organizations, Cape Wind Associates has been subjected to a unique set of litigation pressures that were not anticipated at the time of permitting, including multiple lawsuits that have been filed over the past several years. Although Cape Wind Associates has been successful in all resolved litigation to date and expects that all pending litigation will be resolved in its favor in the near future, an extension of the Phase 1 construction period of no less than twenty-four (24) months is necessary to allow for the completion of the Cape Wind project. Cape Wind therefore respectfully requests that the U.S. Environmental Protection Agency ("EPA") extend the Phase 1 construction period for the wind energy facility to and including September 30, 2017.

Background

EPA issued an Outer Continental Shelf Air Permit to Cape Wind Associates for the Cape Wind Offshore Renewable Wind Energy Project on January 7, 2011, which became effective on June 2, 2011, to allow for the installation and operation of 130 wind turbine generators in the Horseshoe Shoal in Nantucket Sound. See EPA Permit No. OCS-R1-01 (the "Cape Wind OCS Permit" or the "Permit"). The Cape Wind OCS Permit establishes emission standards and operational requirements applicable to site preparation and construction of the Project in the "Phase 1" period. Similarly, the Cape Wind OCS Permit establishes emission standards and operational requirements applicable to the operation, maintenance, and repair of the Project in "Phase 2" of the Permit. At the time the Permit was issued, EPA and Cape Wind Associates anticipated that the Phase 1 construction period of the Project would be complete within thirty-

six (36) months. The beginning of the Phase 1 construction period was September 11, 2012, which is the first date that a vessel or barge associated with the Cape Wind project performed an OCS Attachment. See Permit § 2. Under the terms of the Permit, the end of the Phase 1 construction period is September 30, 2015 (the "End Date"), which is the last day of the calendar month that is thirty-six (36) months after Phase 1 began. See Permit § 2.

In order to allow Cape Wind Associates and EPA to appropriately accommodate technical and legal challenges that arose during the Phase 1 construction period, Section XI.A of the Permit expressly allows EPA to extend the Phase 1 period for good cause. Under the terms of Section XI.A, Cape Wind Associates is required to request any extension no later than 18 months after the beginning of the Phase 1 construction period. The Cape Wind OCS Permit does not limit the length of any extension of the Phase 1 construction period that EPA is authorized to grant. In its extension request, Cape Wind Associates is required to demonstrate that it meets four criteria: (1) that good cause merits an extension of the Phase 1 period; (2) that Cape Wind Associates has complied with its Phase 1 permit requirements; (3) that Cape Wind Associates can continue to comply with its Phase 1 permit requirements during the additional time granted to it; and (4) that all requirements applicable to the project outside of the OCS Permit will continue to be satisfied. See Permit § XI.A.

The Legal and Technical Challenges That the Cape Wind Project Is Overcoming Constitute Good Cause to Extend Phase 1 to September 30, 2017

In order to allow sufficient time for Cape Wind Associates to complete all Phase 1 construction activities, Cape Wind Associates respectfully requests that EPA extend the Phase 1 End Date for a period of twenty-four (24) months, to and including September 30, 2017. For the following reasons, anything less than a 24-month extension of the End Date would severely prejudice Cape Wind Associates' ability to complete construction.

First, the Cape Wind project has been the subject of significant ongoing litigation that has complicated Phase 1 construction efforts. Beginning in 2010, project opponents filed multiple lawsuits in the federal district court for the District of Columbia challenging project approvals by Bureau of Ocean Energy Management and other federal agencies. See, e.g., *PEER v. Beaudreau*, No. 10-1067 (D.D.C. filed June 25, 2010) (consolidated cases). After more than three and one half years, this litigation is still pending, now awaiting the court's ruling on multiple summary judgment motions. And, most recently, opponents of the Project commenced new litigation in the United States District Court for the District of Massachusetts seeking to void Cape Wind's power purchase agreement ("PPA") with NSTAR by reviving claims they have previously asserted and lost as part of the regulatory process that resulted in approval of the NSTAR PPA. While Cape Wind Associates expects favorable decisions in all of these cases soon, the uncertainty created by the litigation has hampered our ability to finalize the more than \$2 billion in financing needed to order and receive the major project construction components, e.g., the turbines. Lenders and investors are understandably highly averse to uncertainty—in particular, litigation uncertainty. Once the litigation is resolved and financing closes, it will take approximately twelve (12) months to fabricate and deliver the major components needed to complete construction. Thus, while Cape Wind Associates has begun its pre-construction work under Phase 1 of the Permit, actual construction has been delayed by protracted litigation that was not anticipated when the Permit was issued.

Second, under the current schedule, Cape Wind Associates anticipates that project financing will close by the end of the third quarter of 2014, which will allow Cape Wind Associates to begin offshore construction in spring 2015. Assuming a 24-month construction cycle, construction could be complete in spring 2017. However, because of possible weather-related and other delays, Cape Wind Associates needs the flexibility to complete construction during the summer and early fall of 2017. Indeed, offshore construction activities are weather-dependent and the conditions on Nantucket Sound vary significantly from day to day. Thus, adhering to a strict construction schedule is extremely difficult.

Third, an extension of the Phase 1 period will, in fact, have potential environmentally beneficial effects. Cape Wind Associates is not seeking an enlargement of the Phase 1 NO_x Cap, so an extension of the Phase 1 construction period will extend the amount of time over which NO_x emissions from Phase 1 activities occur. This will reduce the annual NO_x emissions from the project over the Phase 1 construction period, diminishing any potential contribution that the Cape Wind project will have on the annual ambient PM_{2.5} or NO₂ values. EPA itself recognized these benefits in the Cape Wind permitting process when it determined the initial 36-month Phase 1 construction period. See EPA Response to Comments at 7 (recognizing that an extension of the Phase 1 period "will have no impact on total air emissions; indeed, spreading the same air emissions over a longer period of time may even be beneficial to air quality because it results in a lower impact in any one year").

Cape Wind Associates Has Complied with All Phase 1 Permit Requirements

Cape Wind Associates has complied with all its Phase 1 permit requirements in the time since EPA issued the permit. Under Sections VII.C, VIII, and IX of the Permit, Cape Wind Associates is required to keep records of all measures necessary to assure compliance with the permit and to submit an initial notification and subsequent semi-annual reports summarizing this information. Rather than lengthen this letter by restating the details of Cape Wind Associates' compliance with the OCS Permit, Cape Wind Associates is attaching the initial notification and semi-annual reports as Attachments 1 through 6 of this letter.

Cape Wind Associates Will Continue to Comply with all Phase 1 Permit Requirements during the Extended Phase 1 Period

Cape Wind Associates will continue to comply with all applicable Phase 1 permit requirements during the extended Phase 1 construction period. In addition to continuing to comply with all emission standards and operational practices applicable to various vessels or OCS Stationary Engines used on the project and all other continuing permit requirements, there are two primary continuing obligations on Cape Wind Associates: the Phase 1 NO_x Cap set forth in Section IV.B of the Permit and the Phase 1 Emission Offset requirement set forth in Section VII of the Permit. To date, NO_x emissions associated with Cape Wind Associate's pre-construction work total approximately 6.4 tons. Cape Wind's current compliance with this requirement is explained in its semi-annual reports, as described above.

Additionally, Cape Wind Associates has obtained and continues to possess 285 tons' worth of NO_x emission reduction credits. Cape Wind Associates detailed its possession of these emission reduction credits in its initial notification pursuant to Section VII.C, which is attached to this letter as discussed above. Cape Wind Associates continues to retain these emission reduction credits and will do so throughout the extended Phase 1 construction period.